



May 2, 2023

Prescription Drug Affordability Board
16900 Science Drive
Suite 112-114
Bowie, MD 20715

RE: Proposed Regulations: COMAR 14.01.01.01 General Provisions (Definitions)

We are writing on behalf of the American Council of Life Insurers (“ACLI”) and the League of Life and Health Insurers of Maryland (“League”). ACLI and the League’s member companies together provide over 95% of the life, disability, long term care insurance, and annuities in Maryland and nationally. We appreciate the opportunity to submit the following comments to the Prescription Drug Affordability Board (PDAB) on their proposed rule COMAR 14.01.01.01 General Provisions (Definitions) (Rule). We would also like to thank PDAB Executive Director York and Assistant Attorney General McDonald for the open dialogue and feedback throughout the regulatory process so far.

Introduction

With the rising costs of healthcare, even the most comprehensive major medical plans can leave policyholders with high out-of-pocket expenses. Then there are the associated costs that major medical insurance was never meant to cover such as childcare or travel for treatment. These costs can add up quickly and with the current state of household budgets, many major medical policyholders have a tough time making ends meet. Supplemental policies are the difference maker for policyholders who experience significant medical events and we support and encourage a healthy regulatory environment for these products. The excepted benefits we represent are disability income, long-term care, dental, vision, hospital fixed indemnity, other fixed indemnity, critical illness, specified disease, and accident-only. These products do not cover prescription drugs. Also, most dental insurance policies do not cover prescriptions although some dental managed care organizations offer some preventive prescriptions free of charge to the patient.

Supplemental Benefits Are There to Cover the Gaps in Major Medical

Benefits are usually paid directly to the policyholder and can be used for any purpose. Policyholders have reported that supplemental policies meant that they did not have to skip a mortgage payment or dip into a college fund to pay their bills because they experienced a significant medical event. Many of these policyholders had comprehensive major medical coverage at the time of the medical event.

It is difficult to plan for an unexpected medical event and the associated costs. Supplemental policies offer policyholders peace of mind that should an accident or serious illness occur, they can focus on recovery and not how they are going to pay the bills. This proposed Rule could create the unintended consequence of these products becoming less affordable and available to Marylanders if insurers have to factor the assessment into pricing. Excepted benefits are low-premium products, but the assessment could require a restructuring.

Federal Law Distinguishes Excepted Benefits

In enacting the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), Congress recognized that there are a variety of insurance products that offer benefits that do not provide comprehensive major medical coverage. These types of arrangements instead provide benefits designed primarily to supplement comprehensive, major medical care arrangements, or to only make cash payments directly to policyholders, or to offer medical benefits that are secondary or incidental to some other form of non-medical insurance coverage. For these reasons, we believe that the definition of carrier in the MD Health-General Article, §21–2C–11, Annotated Code of Maryland is overly broad and unintendedly captures insurers that do not offer standalone health plans, but supplemental benefits, to incur the assessment.

Holistic Approach to Applying Assessment

We recommend that the assessment should be made only on carriers offering “health benefit plans” as defined in [MD Health-General Article § 19-132 \(2018\)](#). As defined, “health benefit plan” does not include:

- o Coverage for accident or disability income insurance;
- o Coverage issued as a supplement to liability insurance;
- o Liability insurance, including general liability insurance and automobile liability insurance;
- o Workers' compensation or similar insurance;
- o Automobile or property medical payment insurance;
- o Credit-only insurance;
- o Coverage for on-site medical clinics;
- o Dental or vision insurance;
- o Long-term care insurance or benefits for nursing home care, home health care, community-based care, or any combination of these;
- o Coverage only for a specified disease or illness;
- o Hospital indemnity or other fixed indemnity insurance; or
- o The following benefits if offered as a separate insurance policy:

- Medicare supplemental health insurance, as defined in § 1882(g)(1) of the Social Security Act;
- Coverage supplemental to the coverage provided under Chapter 55 of Title 10 of the United States Code; or
- Similar supplemental coverage provided to coverage under an employer sponsored plan.

Using the definition of “health benefit plan” found in MD Health-General Article § 19-132, will prevent insurers who offer supplemental benefits from being unfairly assessed for something their products do not cover while the PDAB continue to deliver on their mission of protecting Marylanders and the Maryland health care system from the high costs of prescription drug products.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Matthew Celentano", with a long horizontal stroke extending to the right.

Matthew Celentano

The League of Life and Health Insurers of Maryland

A handwritten signature in black ink, appearing to read "Michelle Carroll Foster", written in a cursive style.

Michelle Carroll Foster

American Council of Life Insurers